THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 20.03.2007

+ **WP(C) No.1454/2006**

SHRI DALIP SINGH ...Petitioner

- versus -

LT. GOVERNOR OF DELHI & OTHERS ...Respondents

Advocates who appeared in this case:
For the Petitioner : Mr S.D. Singh
For the Respondent Nos.1 & 2 : Mr V.K. Tandon

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. In this writ petition, the order dated 17.01.2006 passed by Mr S.K. Singh, Deputy Commissioner of Industries (Land), Government of NCT of Delhi, Delhi has been impugned both on the grounds of lack of proper procedure as well as on merits. At the outset, I may observe that the writ petition is liable to be allowed on the first ground itself and, therefore, it would not be necessary for me to examine the merits of the matter.

2. Earlier, the petitioner had approached this court by way of filing a writ petition [WPC 4280/1999] which was allowed by an order dated 14.01.2005. The petitioner was directed to appear in person or through a duly authorised representative before the competent authority being Deputy Secretary (Industries) on 28.02.2005 at 3.00 p.m. for further proceedings. By virtue of the said order, the orders impugned in that writ petition were set aside and the matter was remanded to the said competent authority to determine the matter afresh in pursuance of the show cause notice dated 05.05.1998. The order dated 14.01.2005 passed by this court also required the competent authority to endeavour to complete the proceedings within a period of three months.

3. The only point urged on the procedural lapse or violation of principles of natural justice on the part of the petitioner is that while the matter was heard by the Deputy Secretary (Industries), the order which is impugned herein was passed by the Deputy Commissioner of Industries (Land). The simple point urged is that the authority which heard the petitioner is the one which ought to have passed the order.

4. It is obvious that the Deputy Commissioner of Industries who passed the impugned order had not heard the petitioner. The admitted position is that on 28.02.2005 and on 10.05.2005, personal hearing was granted to the

petitioner and he was heard by Ms Rashmi Krishnan, Deputy Secretary, Industries (Land). However, the impugned order has been passed by Mr S.K. Singh, Deputy Commissioner of Industries (Land). Clearly, the order has been passed by the person who never heard the petitioner. On this ground alone, this writ petition is liable to be allowed. The impugned order is accordingly set aside. The matter is once again remanded to the competent authority [Deputy Commissioner of Industries (Land)]. The petitioner shall appear before the said authority on 16.04.2007 at 3.00 p.m. in the first instance. Since the matter has been pending decision from the competent authority for one reason or the other for a long time, it would be appropriate that the competent authority determines the same as early as possible, but not later than eight weeks.

5. It is, however, made clear that this court has not expressed any opinion on the merits of the matter.

Dasti.

BADAR DURREZ AHMED
(JUDGE)

March 20, 2007
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